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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cousule O. Ledoma
Deputy Clerk

Posted

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 22 2004

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff,

v.

THE CITY OF PULLMAN, a governmental
entity, and DON HEROFF, DAN
HARGRAVES, MIKE SONTGERATH, and
RUBEN HARRIS, individually and as
employees of the CITY OF PULLMAN, and
unknown JOHN DOES,

Defendants.

CV-04-0214-FVS

No. C04-601Z

ORDER

The Court hereby GRANTS defendants' unopposed motion to change venue, docket
no. 11. The Court finds that transfer under 28 U.S.C. § 1406(a) is appropriate and transfers
this case to the United States District Court, Eastern District of Washington.

IT IS SO ORDERED.

DATED this 15th day of June, 2004.

/s/ Thomas S. Zilly

THOMAS S. ZILLY
UNITED STATES DISTRICT JUDGE

THE HONORABLE THOMAS S. ZILLY

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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Carole O. Lederman
Deputy Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff,

v.

THE CITY OF PULLMAN, a governmental
entity, and DON HEROFF, DAN
HARGRAVES, MIKE SONTGERATH,
and RUBEN HARRIS, individually and as
employees of the CITY OF PULLMAN, and
unknown JOHN DOES,

Defendants.

No. C 04-0601 Z

DEFENDANTS' REPLY IN SUPPORT
OF MOTION TO CHANGE VENUE
UNDER 28 U.S.C. § 1406(a) OR, IN
THE ALTERNATIVE, TO DISMISS
WITHOUT PREJUDICE PURSUANT
TO FED.R.CIV.P. 12(b)(3)

NOTE ON MOTION CALENDAR:
Tuesday, June 8, 2004

On June 3, 2004, Plaintiff filed a Response to Defendants' Motion, in which she did
not object to this case being transferred to the Eastern District of Washington at Spokane.
In that response, Plaintiff also made a "request" for consolidation with case number CS 03-
0335 FVS, *Arnold, et al. v. City of Pullman, et al.* Plaintiff never properly noted a Motion
to Consolidate and this Court should deny Plaintiff's request to consolidate at this time.
And, there is no basis to consolidate.

DEFENDANTS' REPLY RE: MOTION TO CHANGE
VENUE, OR TO DISMISS - 1
Cause No. C 04-0601 Z

KEATING, BUCKLIN & MCCORMACK, INC., P.S.
ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 623-8861
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1 Although the injuries alleged by Plaintiffs in both actions allegedly took place on
2 the same night at generally the same location, there are vast differences between the two
3 cases.

4 In *Logan*, Plaintiff is Caucasian. In *Arnold*, a majority, if not all, Plaintiffs are
5 African American. The basis of the Plaintiffs' claims in *Arnold* are that the Defendants'
6 actions were motivated by racial animus. This is not the basis of Plaintiff's Complaint in
7 *Logan*. Second, Plaintiffs in *Arnold* are requesting injunctive relief, while *Logan* makes no
8 such claim in her Complaint.

9 The rule does not support Plaintiff's "request:"

10 When actions involving a *common question of law or fact* are
11 *pending before the court*, it may order a joint hearing or trial
12 of any or all of the matters in issue in the action; it may order
13 all the actions consolidated; and it may make such orders
concerning proceedings therein as may tend to avoid
unnecessary costs or delay.

14 Fed.R.Civ.P. 42(a)(emphasis added).

15 Actions need to involve a common question or law or fact – Logan and Arnold do
16 not. There are many differences in the two causes of action, a few of which were listed
17 above. Furthermore, Rule 42(a) applies only to "actions . . . pending before the court . . ."
18 Thus, the Western District of Washington cannot consolidate a case existing in its court
19 with one in the Eastern District of Washington. This case would first need to be transferred
20 to the Eastern District of Washington, to which Plaintiff does not object, and then the
21 Eastern District of Washington would need to make a decision as to consolidation. It is not
22 for this Court to decide.

23 In conclusion, the Defendants respectfully request that this Court grant their motion,
24 and change the venue of this case to the United States District Court, Eastern District of

DEFENDANTS' REPLY RE: MOTION TO CHANGE
VENUE, OR TO DISMISS - 2
Cause No. C 04-0601 Z

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1 Washington at Spokane under 28 U.S.C. § 1406(A), or, in the alternative, dismiss this case
2 without prejudice pursuant to Fed.R.Civ.P. 12(b)(3).

3 Dated this 7th day of June, 2004.

4 KEATING, BUCKLIN & McCORMACK, INC., P.S.

5
6 s/ Kimberly J. Waldbaum

Stewart A. Estes, WSBA #15535

Andrew G. Cooley, WSBA #15189

7 Kimberly J. Waldbaum, WSBA #31529

Attorneys for all Defendants

8 Keating, Bucklin & McCormack, Inc., P.S.

800 Fifth Avenue, Suite 4141

9 Seattle, WA 98104

10 (206) 623-8861

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kwaldbaum@kbmlawyers.com

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on June 7, 2004, I electronically filed the forgoing with the
13 Clerk of the Court using the CM/ECF system which will send notification of such filing to
14 Edward J. Hemingway, attorney for Plaintiff.

15
16 s/ Karla Struck

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800 Fifth Avenue, Suite 4141

17 Seattle, WA 98104

18 (206) 623-8861

19
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DEFENDANTS' REPLY RE: MOTION TO CHANGE
VENUE, OR TO DISMISS - 3
Cause No. C 04-0601 Z

KEATING, BUCKLIN & McCORMACK, INC., P.S.

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THE HONORABLE THOMAS S. ZILLY

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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cousule O. Ledema
Deputy Clerk

Edward J. Hemingway
BUCKLEY & ASSOCIATES
675 South Lane Street, Suite 300
Seattle, WA 98104
(206) 622-1100

Attorneys for Plaintiff, Nicole Logan

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff,

-vs-

THE CITY OF PULLMAN, a governmental entity,
and DON HEROFF, DAN HARGRAVES, MIKE
SONTGERATH, and RUBEN HARRIS,
individually and as employees of the CITY OF
PULLMAN, and unknown JOHN DOES,

Defendants.

NO. C 04-0601 Z

PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO CHANGE
VENUE UNDER 28 U.S.C 1406(A) OR,
IN THE ALTERNATIVE, TO DISMISS
WITHOUT PREJUDICE PURSUANT TO
FED.R.CIV.P. 12(b)(3) AND REQUEST
FOR CONSOLIDATION WITH CASE
NO. CS-03-0335-FVS.

COMES NOW the plaintiff, by and through her attorney Edward J. Hemingway of Buckley
& Associates, and respectfully responds to the Defendants' Motion to Change Venue Under 28
U.S.C. 1406(a) and moves the Court to grant the change of venue and consolidate this case with
case no. CS-03-0335-FVS.

RESPONSE

All of the defendants in this case have been served. A Notice of Appearance had been
made by attorneys at the Seattle law firm of Keating, Bucklin & McCormack, Inc., P.S. and the
Complaint answered.

PLAINTIFF'S RESPONSE TO DEF MTN TO
CHANGE VENUE AND REQUEST TO
CONSOLIDATE CASES - 1

BUCKLEY & ASSOCIATES, PS, INC.
ATTORNEYS AT LAW
675 S. Lane Street, Suite 300
Seattle, Washington 98104
(206) 622-1100 Fax (206) 622-0688

#13

1 The plaintiff Nicole Logan was a student at Washington State University in Pullman,
2 Washington at the time of the events giving rise to this lawsuit. Since that time, she has graduated
3 and now works in Seattle, Washington. She believes the proper place to have trial is in Seattle.
4 However, the plaintiff does not oppose a change in venue.

5 Plaintiff has become aware of another lawsuit, case no. CS-03-0335-FVS, arising out of the
6 same occurrence and set of facts, filed in the Eastern District of Washington at Spokane against the
7 City of Pullman Police Department and five Pullman police officers with 94 or more similarly
8 situated plaintiffs. The plaintiff in this case moves the Court grant the change in venue and
9 consolidate this case with case no. CS-03-0335-FVS.
10

11 The defendants in case no. CS-03-0335-FVS are also represented by Keating, Bucklin &
12 McCormack of Seattle, Washington, the same defense counsel as in this present case.

13 Dated this 3rd day June of 2004.

14 BUCKLEY & ASSOCIATES
15 Attorneys for Plaintiff Logan

16 BY: s/ Edward J. Hemingway
17 Edward J. Hemingway
18 WSBA #: 28046
19
20
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26

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Stewart A. Estes and Andrew G. Cooley, Attorneys for Defendants, and I hereby certify that I have by ABC Legal Messenger delivered this document to participants: Darryl S. Cochran and Thaddeus P. Martin of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim.

s/ Rik Stephens
Buckley and Associates
675 South Lane Street, Suite 300
Seattle, WA 98104
(206) 622-1100 Phone
(206) 622-0688 Fax

1 Edward J. Hemingway
2 BUCKLEY & ASSOCIATES
3 675 South Lane Street, Suite 300
4 Seattle, WA 98104
5 (206) 622-1100
6
7 Attorneys for Plaintiff, Nicole Logan

The Honorable Thomas S. Zilly

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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cousule O. Ledema
Deputy Clerk

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 NICOLE LOGAN,

NO. C 04-0601-Z

9 Plaintiff,

PLAINTIFF'S ANSWER TO
DEFENDANTS' COUNTERCLAIM

10 -VS-

11 THE CITY OF PULLMAN, a governmental entity,
12 and DON HEROFF, DAN HARGRAVES, MIKE
13 SONTGERATH, and RUBEN HARRIS,
14 individually and as employees of the CITY OF
15 PULLMAN, and unknown JOHN DOES,

Defendants.

16 COME NOW the Plaintiff, by and through their undersigned counsel Buckley and
17 Associates and answer Defendants' Counterclaim as follows:

18
19 **I. Response to Introduction**

20 Plaintiff affirmatively states that her lawsuit is overwhelmingly supported by the evidence.
21 Plaintiff does not comment on the historical recitation of Washington Law and deny the
22 substantive claim that the lawsuit is unfounded and frivolous.

23 **II. Identification of Parties**

24 2.1 The allegations of Counterclaim, paragraph 2.1 are admitted.

25 2.2 The allegations of Counterclaim, paragraph 2.2 are admitted.

26 PLAINTIFF'S ANSWER TO DEFENDANTS'
COUNTERCLAIM - 1

BUCKLEY & ASSOCIATES, PS, INC.
ATTORNEYS AT LAW
675 S. Lane Street, Suite 300
Seattle, Washington 98104
(206) 622-1100 Fax (206) 622-0688

#12

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III. Jurisdiction

3.1 The allegations of Counterclaim, paragraph 3.1 are admitted.

IV. Facts

4.1 The allegations of Counterclaim, paragraph 4.1 are denied.

4.2 The allegations of Counterclaim, paragraph 4.2 are denied.

4.3 The allegations of Counterclaim, paragraph 4.3 are denied.

4.4 The allegations of Counterclaim, paragraph 4.4 are denied.

V. Relief Requested

5.1 The allegations of Counterclaim, paragraph 5.1 are denied.

5.2 The allegations of Counterclaim, paragraph 5.2 are denied.

Wherefore, Plaintiff, having answered Defendants' Counterclaims in full, pray for judgment against counterclaimants as follows:

1. For Counterclaimants' claims to be dismissed with prejudice in their entirety;
2. For costs and attorneys' fees in defending this frivolous counterclaim; and
3. For any and other relief the Court deems just and proper.

DATED: This 3rd day of June 2004.

BUCKLEY & ASSOCIATES
Attorneys for Plaintiff

BY: s/ Edward J. Hemingway
Edward J. Hemingway #28046
Buckley and Associates
675 South Lane Street, Suite 300
Seattle, WA 98104
(206) 622-1100 Phone
(206) 622-0688 Fax
ehemingway@buckleylaw.net

//

PLAINTIFF'S ANSWER TO DEFENDANTS'
COUNTERCLAIM - 2

BUCKLEY & ASSOCIATES, PS, INC.
ATTORNEYS AT LAW
675 S. Lane Street, Suite 300
Seattle, Washington 98104
(206) 622-1100 Fax (206) 622-0688

//

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
Stewart A. Estes and Andrew G. Cooley, Attorneys for Defendants.

s/ Rik Stephens
Buckley and Associates
675 South Lane Street, Suite 300
Seattle, WA 98104
(206) 622-1100 Phone
(206) 622-0688 Fax

THE HONORABLE THOMAS S. ZILLY

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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cassius O. Ledone
Deputy Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff,

v.

THE CITY OF PULLMAN, a governmental
entity, and DON HEROFF, DAN
HARGRAVES, MIKE SONTGERATH,
and RUBEN HARRIS, individually and as
employees of the CITY OF PULLMAN, and
unknown JOHN DOES,

Defendants.

No. C 04-0601 Z

DEFENDANTS' MOTION TO
CHANGE VENUE UNDER 28 U.S.C.
§ 1406(a) OR, IN THE
ALTERNATIVE, TO DISMISS
WITHOUT PREJUDICE PURSUANT
TO FED.R.CIV.P. 12(b)(3)

NOTE ON MOTION CALENDAR:
Tuesday, June 8, 2004

I. RELIEF REQUESTED

Defendants, City of Pullman, et al., respectfully request that this Court grant their
Motion to Change Venue or, in the Alternative, to Dismiss Without Prejudice. The
appropriate venue for this case is the United States District Court, Eastern District of
Washington, since the Defendant City the individual Defendants are all located in Pullman,
Washington, Whitman County.

DEFENDANTS' MOTION TO CHANGE
VENUE, OR TO DISMISS - I
Cause No. C 04-0601 Z

KEATING, BUCKLIN & MCCORMACK, INC., P.S.
ATTORNEYS AT LAW
600 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 623-8861
FAX: (206) 223-9423

This lawsuit arises out of an incident at the Top of China Restaurant and Attic nightclub in Pullman, Washington on September 8, 2002. See, *Plaintiff's Complaint* (previously filed with the Court on March 19, 2004), ¶ 6. Plaintiff alleges she was at the Attic nightclub with friends, and suffered injuries due to the use of oleoresin capsicum spray by Pullman Police Officers Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris in response to an altercation at the club. *Id.*

III. ISSUE PRESENTED

IV. EVIDENCE RELIED UPON

V. LEGAL AUTHORITY

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated or (3) a judicial district in which any defendant may be found, if

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1 there is no district in which the action may otherwise be
2 brought.

3 Thus, under this statute, venue is proper in the Eastern District of Washington, which
4 encompasses Whitman County, the county in which the City of Pullman is located. Venue
5 rules give defendants some control over the place of trial. Otherwise, Plaintiff could file
6 suit in some remote district where it might be unreasonably burdensome to defend. The
7 venue rules thus balance the conveniences of the parties with other policy factors in
8 selecting an appropriate forum for trial. *Denver & Rio Grande Railroad v. Brotherhood of*
9 *Railroad Trademen*, 387 U.S. 556, 560, 87 S.Ct. 1746 (1967). Federal venue is governed
10 entirely by statute. *See, Brunette Machine Works, Ltd. v. Kochum Industries, Inc.*, 406 U.S.
11 706, 709 n.8, 92 S.Ct. 1936 (1972).

12 Under 28 U.S.C. § 1391, the proper venue for this action is in the Eastern District of
13 Washington. Because of improper venue, the Defendants request that this Court dismiss
14 Plaintiff's claims without prejudice under Fed.R.Civ.P. 12(b)(3), or in the alternative,
15 transfer the case to the Eastern District of Washington pursuant to 28 U.S.C. § 1406(a).
16 Since this motion has been made in a timely fashion, transfer or dismissal is *mandatory*.

17 The district court of a district in which is filed a case laying
18 venue in the wrong division or district **shall dismiss**, or if it
 be in the interest of justice, transfer such case to any district
 or division in which it could have been brought.

19 18 U.S.C. § 1406(a) (emphasis added). Transfer is appropriate only if "in the interest of
20 justice." Transfer may be refused and dismissal ordered where plaintiff's claim appears to
21 be very weak and there is no apparent statute of limitations problem. *See, Cook v. Fox*, 537
22 F.2d 370, 371 (9th Cir. 1976); *McFarland v. Memorex Corp.*, 493 F. Supp. 656, 659-660
23 (N.D. Ca. 1980).

24 DEFENDANTS' MOTION TO CHANGE
 VENUE, OR TO DISMISS - 3
 Cause No. C 04-0601 Z

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1 The Defendants in this matter do not have any objection to the transfer of this cause
2 of action to the Eastern District of Washington if this Court finds that it is "in the interests
3 of justice." The bottom line is that the Western District of Washington is improper venue,
4 and dismissal or transfer is mandatory to correct this defect.

5 **VI. CONCLUSION**

6 Based upon the foregoing, Defendants request that this Court grant their Motion and
7 dismiss Plaintiff's claims without prejudice or, in the alternative, transfer this cause of
8 action to United States District Court, Eastern District of Washington.

9 Dated this 26th day of May, 2004.

10 KEATING, BUCKLIN & McCORMACK, INC., P.S.

11 s/ Kimberly J. Waldbaum

12 Stewart A. Estes, WSBA #15535

13 Andrew G. Cooley, WSBA #15189

14 Kimberly J. Waldbaum, WSBA #31529

15 Attorneys for all Defendants

16 Keating, Bucklin & McCormack, Inc., P.S.

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18 Seattle, WA 98104

19 (206) 623-8861

20 (206) 223-9423

21 kwaldbaum@kbmlawyers.com

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on May 27, 2004, I electronically filed the forgoing with the
24 Clerk of the Court using the CM/ECF system which will send notification of such filing to
Edward J. Hemingway, attorney for Plaintiff.

25 s/ Karla Struck

26 Keating, Bucklin & McCormack, Inc., P.S.

27 800 Fifth Avenue, Suite 4141

28 Seattle, WA 98104

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DEFENDANTS' MOTION TO CHANGE
VENUE, OR TO DISMISS - 4
Cause No. C 04-0601 Z

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THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff,

v.

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Defendants.

No. C 04-0601 Z

ORDER GRANTING DEFENDANTS'
MOTION TO CHANGE VENUE
UNDER 28 U.S.C. § 1406(a) OR, IN
THE ALTERNATIVE, TO DISMISS
WITHOUT PREJUDICE PURSUANT
TO FED.R.CIV.P. 12(b)(3)

[PROPOSED]

NOTE ON MOTION CALENDAR:
Tuesday, June 8, 2004

THIS MATTER having come before the Court on Defendants' Motion to Change
Venue Under 28 U.S.C. § 1406(a) or, in the Alternative, to Dismiss Without Prejudice
Pursuant to Fed.R.Civ.P. 12(b)(3), and the Court having considered the following:

1. Defendants' Motion to Change Venue Under 28 U.S.C. § 1406(a) or, in the
Alternative, to Dismiss Without Prejudice Pursuant to Fed.R.Civ.P. 12(b)(3).

2. _____

3. _____

PROPOSED ORDER - 1
Cause No. C 04-0601 Z

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FAX: (206) 223-9423

1
2 The Court, in considering the arguments of the parties and finding itself fully
3 informed, hereby grants Defendants' Motion, and orders (please check one of the
4 following):

5 ☐ That this case be dismissed for improper venue pursuant to Fed.R.Civ.P.
6 12(b)(3); or

7 ☐ That this case shall be transferred to the Eastern District of Washington
8 pursuant to 28 U.S.C. § 1406(a).

9 DONE IN OPEN COURT this ____ day of _____, 2004.

10
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12 Honorable Thomas S. Zilly
13 United States District Court Judge
14
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THE HONORABLE THOMAS S. ZILLY

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ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE
by Cornelia O. Lederman Deputy Clerk

NICOLE LOGAN,

Plaintiff,

v.

THE CITY OF PULLMAN, a governmental
entity, and DON HEROFF, DAN
HARGRAVES, MIKE SONTGERATH,
and RUBEN HARRIS, individually and as
employees of the CITY OF PULLMAN, and
unknown JOHN DOES,

Defendants.

No. C 04-0601 Z

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT

DEFENDANTS City of Pullman, Don Heroff, Dan Hargraves, Mike Sontgerath and
Ruben Harris, in answer to Plaintiff's Complaint, admit, deny and allege as follows:

Unless otherwise specifically admitted below, Defendants deny each and every
allegation in Plaintiff's Complaint.

JURISDICTION

1. Defendants deny the allegations contained in paragraph 1 as legal
conclusions, and therefore deny the same.

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT - 1
Cause No. C 04-0601 Z

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800 FIFTH AVENUE, SUITE 4141
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#10

PARTIES

5. Defendants admit that the Pullman Police Department is located in Pullman, Washington and deny all other allegations contained in paragraph 5.

FACTS

FIRST CAUSE OF ACTION

10. Defendants deny the allegations contained in paragraph 10.

SECOND CAUSE OF ACTION

11. Defendants repeat and reallege each and every answer to each preceding paragraph.

12. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

13. Defendants deny the allegations contained in paragraph 13.

14. Defendants deny the allegations contained in paragraph 14.

THIRD CAUSE OF ACTION

15. Defendants repeat and reallege each and every answer to each preceding paragraph.

16. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

17. Defendants deny the allegations contained in paragraph 17.

18. Defendants deny the allegations contained in paragraph 18.

FOURTH CAUSE OF ACTION

19. Defendants repeat and reallege each and every answer to each preceding paragraph.

20. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

21. Defendants deny the allegations contained in paragraph 21.

22. Defendants deny the allegations contained in paragraph 22.

23. Defendants deny the allegations contained in paragraph 23.

FIFTH CAUSE OF ACTION

24. Defendants repeat and reallege each and every answer to each preceding paragraph.

25. Defendants deny the allegations contained in paragraph 25.

26. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

27. Defendants deny the allegations contained in paragraph 27.

28. Defendants deny the allegations contained in paragraph 28.

29. Defendants deny the allegations contained in paragraph 29.

SIXTH CAUSE OF ACTION

30. Defendants repeat and reallege each and every answer to each preceding paragraph.

31. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

32. Defendants deny the allegations contained in paragraph 32.

33. Defendants deny the allegations contained in paragraph 33.

SEVENTH CAUSE OF ACTION

34. Defendants repeat and reallege each and every answer to each preceding paragraph.

35. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

36. Defendants deny the allegations contained in paragraph 36.

37. Defendants deny the allegations contained in paragraph 37.

EIGHTH CAUSE OF ACTION

38. Defendants repeat and reallege each and every answer to each preceding paragraph.

39. Defendants admit that this paragraph of Plaintiff's Complaint states what is written.

40. Defendants deny the allegations contained in paragraph 40.

41. Defendants deny the allegations contained in paragraph 41.

42. Defendants deny the allegations contained in paragraph 42.

Defendants deny Plaintiff's prayer for relief contained on page 8 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

By way of further answer and affirmative defenses, Defendants allege:

1. That the district court in which this action has been commenced is not the proper venue for said action.

2. That the Plaintiff has failed to file a claim against the City as required by State law or that the claim filed is insufficient.

3. That the injuries and damages, if any, claimed by the Plaintiff were proximately caused or contributed to by the fault of Plaintiff.

4. That all actions of the Defendants herein alleged as negligence, manifest a reasonable exercise of judgment and discretion by authorized public officials made in the exercise of governmental authority entrusted to them by law and are neither tortious nor actionable.

1 5. That the injuries and damages, if any, alleged by Plaintiff were caused by
2 intentional tortfeasors, and are segregable.

3 6. That the Plaintiff has failed to state a claim upon which relief may be
4 granted.

5 7. That if the Plaintiff sustained any injury or damage, the same was the result
6 of reasonable conduct and required conduct of the Defendants under the circumstances and
7 was excusable and justifiable.

8 8. That any force utilized by the Defendants was reasonable, necessary and
9 lawful under the circumstances.

10 9. That the Defendants at all times acted in good faith in the performance of
11 their duties and are therefore immune from suit for the matters charged in Plaintiff's
12 Complaint.

13 10. That if the Plaintiff suffered any damages, recovery therefore is barred by
14 Plaintiff's failure to mitigate said damages.

15 11. That the conduct of the Defendants was privileged and nontortious (absolute
16 privilege-qualified privilege).

17 12. Pursuant to RCW 4.22.070, Defendants allege that there are other entities at
18 fault for the damages alleged in Plaintiff's Complaint. This answer is based on the limited
19 discovery and investigation done to date and is subject to amendment and
20 supplementations. At this stage Defendants allege the following are at fault: Top of China,
21 The Attic, and their agents or employees, and the Omega Psi Phi Fraternity, and Ira Davis,
22 Alvin Tolliver, Fred Shavies, Reggie Robinson, Johnny Jones, Damon Arnold, Quincy
23 Jones, Quintavian Wilson, Aaron Morris, Derrick Lang, and Corey (last name unknown).

24
DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT - 6
Cause No. C 04-0601 Z

KEATING, BUCKLIN & MCCORMACK, INC., P.S.
ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 823-8861
FAX: (206) 223-9423

1 **JURY DEMAND**

2 Defendants hereby demand that this matter be tried before a jury of six persons,
3 pursuant to Fed.R.Civ.P. 38.

4 **COUNTERCLAIM FOR FRIVOLOUS LAWSUIT**

5 **I. INTRODUCTION.**

6 In 1984 the Washington State Legislature made a specific finding that there were a
7 growing number of unfounded claims and lawsuits filed against law enforcement, which
8 had the purpose of deterring those officers from performing their duties.

9 The Legislature also found that the cost of defending against such unfounded suits is
10 severely burdensome to such officers and their employers, and passed RCW 4.24.350 to
11 remedy this problem.

12 This lawsuit is typical of unfounded and frivolous lawsuits contemplated by the
13 legislation. Plaintiff has made false, unfounded and defamatory statements about the
14 Defendant Police Officers. The Plaintiff's claims are frivolous. Each Pullman officer is
15 entitled to all relief under the law, including liquidated damages of \$1,000. The Plaintiff is
16 also liable for Defendants' attorneys' fees.

17 **II. IDENTIFICATION OF PARTIES.**

18 2.1 This counterclaim is brought on behalf of Pullman Police Officers Dan
19 Hargraves, Ruben Harris, Don Heroff, and Mike Sontgerath.

20 2.2 This counterclaim is against the Plaintiff set forth in the caption.

21 **III. JURISDICTION.**

22 3.1 This Court has supplemental jurisdiction over the counterclaim under 28
23 U.S.C. § 1367.

24 DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT - 7
Cause No. C 04-0601 Z

KEATING, BUCKLIN & MCCORMACK, INC., P.S.
ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 623-8881
FAX: (206) 223-9423

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IV. FACTS.

4.1 The Plaintiff has instituted this lawsuit against the Pullman Police Officers knowing that the suit is false, unfounded, malicious and without probable cause. The Plaintiff has misused judicial process by filing an action she knows is false and unfounded.

4.2 Based upon this false and unfounded action, the Pullman Police Officers have a right to relief under RCW 4.24.350.

4.3 The Pullman Officers are entitled to all relief allowed under that statute, including liquidated damage of \$1,000 per officer, against the Plaintiff, and attorneys' fees.

4.4 In this lawsuit, the Pullman Officers specifically disavow any claim for damages in excess of the claim for liquidated damages and attorneys' fees, and disavow any claim for personal injury. As such, the Pullman Officers do not waive any applicable privileges, including but not limited to, the physician-patient privilege, and they do not expose themselves to improper intrusive discovery.

V. RELIEF REQUESTED.

5.1 Based upon the foregoing allegations, the Pullman Officers seek a judgment against the Plaintiff for liquidated damages of \$1,000 for each officer against the Plaintiff along with attorneys' fees as provided by RCW 4.24.350.

5.2 In addition, Defendants pray that Plaintiff's lawsuit against them be dismissed with prejudice and she takes nothing by this Complaint, and Defendants be awarded their costs and attorneys fees under 42 U.S.C. § 1988.

1 Submitted this 20th day of May, 2004.

2 KEATING, BUCKLIN & McCORMACK, INC., P.S.

3
4 s/ Stewart A. Estes

5 Stewart A. Estes, WSBA #15535

6 Andrew G. Cooley, WSBA #15189

7 Attorneys for all Defendants

8 Keating, Bucklin & McCormack, Inc., P.S.

9 800 Fifth Avenue, Suite 4141

10 Seattle, WA 98104

11 (206) 623-8861

12 (206) 223-9423

13 sestes@kbmlawyers.com

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DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT - 9
Cause No. C 04-0601 Z

KEATING, BUCKLIN & McCORMACK, INC., P.S.

ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 623-8861
FAX: (206) 223-9423

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2004, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Ernest Hemingway, attorney for Plaintiff.

s/ Karla Struck
Keating, Bucklin & McCormack, Inc., P.S.
800 Fifth Avenue, Suite 4141
Seattle, WA 98104
(206) 623-8861

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT - 10
Cause No. C 04-0601 Z

KEATING, BUCKLIN & MCCORMACK, INC., P.S.

ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3175
PHONE: (206) 623-8861
FAX: (206) 223-9423

FILED ENTERED
LODGED RECEIVED
MAY 11 2004 DJ

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

AFFIDAVIT OF SERVICE

**UNITED STATES DISTRICT COURT
Western District of Washington**

I hereby certify that the
instrument is a true
and correct copy of the original
on file in my office.

ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

Case Number: C04-0801

Plaintiff:
Nicole Logan

vs.

Defendant:
The City of Pullman, et al

For:
ABC Legal Services, Inc.
910 5th Ave.
Seattle, WA 98104

By Cousule O. Lidoma
Deputy Clerk

1. I hereby certify that the instrument is a true and correct copy of the original on file in my office.
2. I have caused the instrument to be served on the person named in the instrument.
04-CV-00601-CERT

Received these papers to be served on OFFICER DAN HARGRAVES, 280 SE Kamiaken, Pullman, Washington.

I, John C. Faires, being duly sworn, depose and say that on the 23rd day of April, 2004 at 6:41 pm, I:

Individually Served the within named person with a true copy of this Summons and Complaint with the date and hour endorsed thereon by me, pursuant to State Statutes.

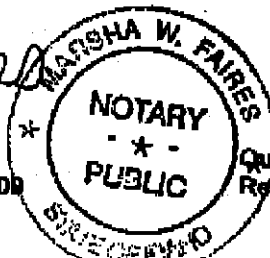
The undersigned, being first duly sworn, on oath deposes and says: That he is now and all times herein mentioned a citizen of the United States, over the age of twenty-one years, not a party to or interested in the above entitled action and competent to be a witness therein.

SUBSCRIBED AND SWORN TO ME ON the 4th day
of May, 2004 BY THE AFFIANT WHO IS
PERSONALLY KNOWN TO ME.

John C. Faires
John C. Faires
#255159

Fees 95.00

Marsha W. Faires
NOTARY PUBLIC
STATE OF IDAHO
RESIDING AT NEZPERCE
MY COMMISSION EXPIRES 01-31-2009



Our Job Serial Number: 2004000332
Ref: 2928192

#9

FILED ENTERED
LODGED RECEIVED
MAY 11 2004 DJ

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

AFFIDAVIT OF SERVICE

UNITED STATES DISTRICT COURT
Western District of Washington

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.
ATTEST: BRUCE BIFFLIN
Clerk, U. S. District Court
Western District of Washington

Case Number: C04-0601

Plaintiff:
Nicole Logan

vs.

Defendant:
The City of Pullman, et al

For:
ABC Legal Services, Inc.
810 5th Ave.
Seattle, WA 98104

By Consuela O. Ledesma
Deputy Clerk

04-CV-00601-CERT

Received these papers to be served on RUBEN HARRIS, 649 NW Sunset Dr., Pullman, Washington.

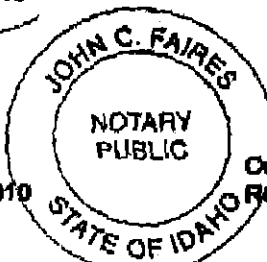
I, Marsha W. Faires, being duly sworn, depose and say that on the 22nd day of April, 2004 at 6:23 pm, I:

Individually Served the within named person with a true copy of this Summons and Complaint with the date and hour endorsed thereon by me, pursuant to State Statutes.

The undersigned, being first duly sworn, on oath deposes and says: That he is now and all times herein mentioned a citizen of the United States, over the age of twenty-one years, not a party to or interested in the above entitled action and competent to be a witness therein.

SUBSCRIBED AND SWORN TO ME ON the 4th day
of May, 2004 BY THE AFFIANT WHO IS
PERSONALLY KNOWN TO ME.

John C. Faires
NOTARY PUBLIC
STATE OF IDAHO
RESIDING AT NEZPERCE
MY COMMISSION EXPIRES 02-04-2010



Marsha W. Faires
Marsha W. Faires
#255156
Fees 75.00

Our Job Serial Number: 2004000360
Ref: 2928185

#8

FILED ENTERED
LODGED RECORDED
MAY 21 2004 DJ
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

AFFIDAVIT OF SERVICE I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.
UNITED STATES DISTRICT COURT
Western District of Washington
TEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

Case Number: C04-0601

Plaintiff:
Nicole Logan
vs.

Defendant:
The City of Pullman, et al

For:
ABC Legal Services, Inc.
810 5th Ave.
Seattle, WA 98104

By Cousins O. Ledema
Deputy Clerk



04-CV-00601-CERT

Received these papers to be served on THE CITY OF PULLMAN, 325 SE Paradise St., Pullman, Washington.

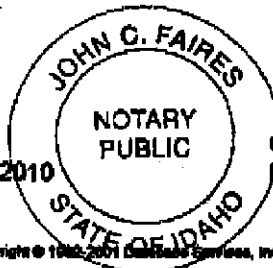
I, Marsha W. Faires, being duly sworn, depose and say that on the 22nd day of April, 2004 at 4:02 pm, I:

Served the within named entity by delivering a true copy of the Summons and Complaint with the date and hour of service endorsed thereon by me, to Glenn Johnson as Mayor of the within named entity, in compliance with State Statutes.

The undersigned, being first duly sworn, on oath deposes and says: That he is now and all times herein mentioned a citizen of the United States, over the age of twenty-one years, not a party to or interested in the above entitled action and competent to be a witness therein.

SUBSCRIBED AND SWORN TO ME ON the 4th day
of May, 2004 BY THE AFFIANT WHO IS
PERSONALLY KNOWN TO ME.

John C. Faires
NOTARY PUBLIC
STATE OF IDAHO
RESIDING AT NEZPERCE
MY COMMISSION EXPIRES 02-04-2010



Marsha W. Faires
Marsha W. Faires
#255158

Fees 75.00

Our Job Serial Number: 2004000359
Ref: 2928174

#7

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.

By Cousens O. Ledema
Deputy Clerk

04-CV-00601-CERT

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16

Stewart A. Estes
 KEATING, BUCKLIN & McCORMACK, INC., P.S.
 800 FIFTH AVENUE, #4141
 SEATTLE, WA 98104
 (206) 623-8861

Attorneys for Defendants

FILED ENTERED
 LODGED RECEIVED
 APR 30 2004 DJ

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY DEPUTY

I hereby certify that the
 annexed instrument is a true
 and correct copy of the original
 on file in my office.
 UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE
 CLERK: BRUCE RIFKIN
 Clerk, U. S. District Court
 Western District of Washington

NICOLE LOGAN,

Plaintiff,

By Cousule O. Leloma
 No. C04-0601 Z Deputy Clerk

PROOF OF SERVICE

v.
 THE CITY OF PULLMAN, a governmental
 entity, and DON HEROFF, DAN
 HARGRAVES, MIKE SONTGERATH,
 and RUBEN HARRIS, individually and as
 employees of the CITY OF PULLMAN, and
 unknown JOHN DOES,

Defendants.

04-CV-00601-MISC

Under penalty of perjury under the laws of the State of Washington, I declare that a
 true copy of the following documents:

- * Notice of Appearance
- * Proof of Service

were served via:



Legal Messenger

☒ U. S. Mail

☐ Facsimile

upon the following:

NOTICE OF APPEARANCE - 1

Cause No. C04-0601 Z

C:\Documents and Settings\SLHARTLE\My Documents\slh\c040601p-
 042804-proof svr.doc

KEATING, BUCKLIN & McCORMACK, INC., P.S.

ATTORNEYS AT LAW
 800 FIFTH AVENUE, SUITE 4141
 SEATTLE, WASHINGTON 98104-3171
 PHONE: (206) 623-8801
 FAX: (206) 223-9423

ORIGINAL

1 Edward J. Hemingway
2 Buckley & Associates, PS, Inc.
3 675 South Lane Street, Suite 300
4 Seattle, WA 98104

5 *on April 29, 2004*

6 *Sandra L. Hartlieb*
7 Sandra L. Hartlieb

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24 NOTICE OF APPEARANCE - 2

Cause No. C04-0601 Z

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KEATING, HUCKLIN & MCCORMACK, INC., P.S.

ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3479
PHONE: (206) 463-6681
FAX: (206) 463-9622

1 Stewart A. Estes
 2 KEATING, BUCKLIN & McCORMACK, INC., P.S.
 3 800 FIFTH AVENUE, #4141
 4 SEATTLE, WA 98104
 5 (206) 623-8861

6 Attorneys for Defendants

FILED ENTERED

LODGED RECEIVED

APR 30 2004 DJ

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY DEPUTY

8 UNITED STATES DISTRICT COURT, I hereby certify that the
 9 WESTERN DISTRICT OF WASHINGTON, entered instrument is a true
 and correct copy of the original
 AT SEATTLE on file in my office.

ATTEST: BRUCE RIFKIN
 Clerk, U. S. District Court
 Western District of Washington
 No. 04-0601 Z

By Counsel O. Ledonne
 Deputy Clerk
 NOTICE OF APPEARANCE

10 NICOLE LOGAN,

11 Plaintiff,

12 v.

13 THE CITY OF PULLMAN, a governmental
 14 entity, and DON HEROFF, DAN
 15 HARGRAVES, MIKE SONTGERATH,
 16 and RUBEN HARRIS, individually and as
 17 employees of the CITY OF PULLMAN, and
 18 unknown JOHN DOES,

19 Defendants.

20 TO : PLAINTIFF

21 AND TO : Edward J. Hemingway, her attorney

22 AND TO : THE CLERK OF THE ABOVE-ENTITLED COURT

23 YOU, AND EACH OF YOU, WILL PLEASE BE ADVISED AND TAKE
 24 NOTICE that Stewart A. Estes and Andrew G. Cooley appear as attorneys of record for
 Defendants CITY OF PULLMAN, DON HEROFF, DAN HARGRAVES, MIKE

NOTICE OF APPEARANCE - 1

Cause No. 04-0601 Z

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KEATING, BUCKLIN & McCORMACK, INC., P.S.

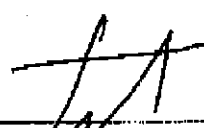
ATTORNEYS AT LAW
 800 FIFTH AVENUE, SUITE 4141
 SEATTLE, WASHINGTON 98101-3175
 PHONE: (206) 623-8861
 FAX: (206) 225-9428

#4

1 SONTGERATH, and RUBEN HARRIS, without waiving any defects as to lack of
2 jurisdiction over subject matter, lack of jurisdiction over person, improper venue,
3 insufficiency of process, insufficiency of service of process, misjoinder or non-joinder, and
4 hereby requests that any and all further pleadings or notices of any nature or kind
5 whatsoever affecting the rights of said parties, except original process, be served upon the
6 undersigned attorneys at the address stated below.

7 DATED this 29 day of April, 2004.

8 KEATING, BUCKLIN & McCORMACK, INC., P.S.

9
10 
11 Stewart K. Estes, WSBA #15535
12 Andrew G. Cooley, WSBA # 15189
13 Attorneys for Defendants
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NOTICE OF APPEARANCE - 2

Cause No. C04-0601 Z

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042904-not app.doc

KEATING, BUCKLIN & McCORMACK, INC., P.S.

ATTORNEYS AT LAW
800 FIFTH AVENUE, SUITE 4141
SEATTLE, WASHINGTON 98104-3178
PHONE: (206) 825-8881
FAX: (206) 223-9423

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.

ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cousule O. Lidman
Deputy Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE LOGAN,

Plaintiff(s),

v.

CITY OF PULLMAN, et al.,

Defendant(s).

CASE NO. C04-601Z

ORDER REGARDING INITIAL
DISCLOSURES, JOINT STATUS
REPORT, AND EARLY
SETTLEMENT

I. INITIAL SCHEDULING DATES

Pursuant to the December 1, 2000 revisions to the Federal Rules of Civil Procedure, the Court sets
the following dates for initial disclosure and submission of the Joint Status Report and Discovery Plan:

Deadline for FRCP 26(f) Conference: June 2, 2004

Initial Disclosures Pursuant to FRCP 26(a): June 9, 2004

Combined Joint Status Report and Discovery
Plan as Required by FRCP 26(f)
and Local Rule CR 16: June 16, 2004

II. JOINT STATUS REPORT & DISCOVERY PLAN

All counsel and any pro se parties are directed to confer and provide the Court with a combined
Joint Status Report and Discovery Plan (the "Report") by June 16, 2004. This conference shall be by
direct and personal communication, whether that be a face-to-face meeting or a telephonic conference.

ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT,
AND EARLY SETTLEMENT - 1

#3

1 The Report will be used in setting a schedule for the prompt completion of the case. It must contain the
2 following information by corresponding paragraph numbers:

3 1. A statement of the nature and complexity of the case.
4 2. A statement of which ADR method (mediation, arbitration, or other) should be used. The
5 alternatives are described in Local Rule CR 39.1 and in the ADR Reference Guide which is available from
6 the clerk's office. If the parties believe there should be no ADR, the reasons for that belief should be
7 stated.

8 3. Unless all parties agree that there should be no ADR, a statement of when mediation or
9 another ADR proceeding under Local Rule CR 39.1 should take place. In most cases, the ADR
10 proceeding should be held within four months after the Report is filed. It may be resumed, if necessary,
11 after the first session.

12 4. A proposed deadline for joining additional parties.

13 5. A proposed discovery plan that indicates:

14 A. The date on which the FRCP 26(f) conference and FRCP 26(a) initial disclosures
15 took place;

16 B. The subjects on which discovery may be needed and whether discovery should be
17 conducted in phases or be limited to or focused upon particular issues;

18 C. What changes should be made in the limitations on discovery imposed under the
19 Federal and Local Civil Rules, and what other limitations should be imposed;

20 D. A statement of how discovery will be managed so as to minimize expense (e.g., by
21 foregoing or limiting depositions, exchanging documents informally, etc.); and

22 E. Any other orders that should be entered by the Court under FRCP 26(c) or under
23 Local Rule CR 16(b) and (c).

24 6. The date by which the remainder of discovery can be completed.
25
26

1 7. Whether the parties agree that a full-time Magistrate Judge may conduct all proceedings,
2 including trial and the entry of judgment, under 28 U.S.C. § 636(c) and Local Rule MJR 13. Agreement
3 in the Report will constitute the parties' consent to referral of the case to a full-time Magistrate Judge.

4 8. Whether the case should be bifurcated by trying the liability issues before the damages
5 issues, or bifurcated in any other way.

6 9. Whether the pretrial statements and pretrial order called for by Local Rules CR 16(e), (h),
7 (i), and (l), and 16.1 should be dispensed with in whole or in part for the sake of economy.

8 10. Any other suggestions for shortening or simplifying the case.

9 11. The date the case will be ready for trial.

10 12. Whether the trial will be jury or non-jury.

11 13. The number of trial days required.

12 14. The names, addresses, and telephone numbers of all trial counsel.

13 15. If, on the due date of the Report, all defendant(s) or respondent(s) have not been served,
14 counsel for the plaintiff shall advise the Court when service will be effected, why it was not made earlier,
15 and shall provide a proposed schedule for the required FRCP 26(f) conference and FRCP 26(a) initial
16 disclosures.

17 16. Whether any party wishes a scheduling conference prior to a scheduling order being
18 entered in the case.

19 If the parties are unable to agree on any part of the Report, they may answer in separate
20 paragraphs. No separate reports are to be filed.

21 The time for filing the Report may be extended only by court order. Any request for extension
22 should be made by telephone to Casey Condon at 206-553-0281.

23 If the parties wish to have a status conference with the Court at any time during the pendency of
24 this action, they should notify Casey Condon at 206-553-0281.

III. PLAINTIFF'S RESPONSIBILITY

This Order is issued at the outset of the case, and a copy is delivered by the clerk to counsel for plaintiff (or plaintiff, if pro se) and any defendants who have appeared. Plaintiff's counsel (or plaintiff, if pro se) is directed to serve copies of this Order on all parties who appear after this Order is filed within ten (10) days of receipt of service of each appearance. Plaintiff's counsel (or plaintiff, if pro se) will be responsible for starting the communications needed to comply with this Order.

IV. EARLY SETTLEMENT CONSIDERATION

When civil cases are settled early -- before they become costly and time-consuming -- all parties and the court benefit. The Federal Bar Association Alternative Dispute Resolution Task Force Report for this district stated:

[T]he major ADR related problem is not the percentage of civil cases that ultimately settle, since statistics demonstrate that approximately 95% of all cases are resolved without trial. However, the timing of settlement is a major concern. Frequently, under our existing ADR system, case resolution occurs far too late, after the parties have completed discovery and incurred substantial expenditure of fees and costs.

The judges of this district have adopted a resolution "approving the Task Force's recommendation that court-connected ADR services be provided as early, effectively, and economically as possible in every suitable case."

The steps required by this Order are meant to help achieve that goal while preserving the rights of all parties.

If settlement is achieved, counsel shall notify Casey Condon at 206-553-0281.

V. ELECTRONIC FILING

Counsel are **STRONGLY ENCOURAGED** to electronically file all documents with the Court. Electronically filed pleadings are instantly filed and the Court has instant access to review and consider pleadings. Pleadings filed in paper form have to be labeled, scanned and then docketed in the Clerk's Office. That can, and likely will, result in a delay of several days before the

1 document is posted on the docket sheet, which will result in a delay before the Court will be able
2 to review and consider the pleadings.

3 **VI. SANCTIONS**

4 A failure by any party to comply fully with this Order may result in the imposition of sanctions.

5 DATED: May 5, 2004.

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7 /s/ Thomas S. Zilly
8 United States District Judge
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04-CV-00601-AF

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DJ
AT SEATTLE
CLERK OF DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

AFFIDAVIT OF SERVICE

**UNITED STATES DISTRICT COURT
Western District of Washington**

Case Number: C04-0801

Plaintiff:

Nicole Logan

vs.

Defendant:

The City of Pullman, et al

For:

ABC Legal Services, Inc.
910 5th Ave.
Seattle, WA 98104

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.
ATTEST: BRUCE RIFKIN
Clerk, U. S. District Court
Western District of Washington

By Cassius O. Ledioma
Deputy Clerk

Received by H & H Legal Messengers to be served on OFFICER DON HEROFF, 725 SE Kamikaken St., Pullman,
Whitman County, Washington.

I, Marsha W. Faires, being duly sworn, depose and say that on the 14th day of April, 2004 at 4:55 pm, I:

Individually Served the within named person with a true copy of this Summons and Complaint with the date and
hour endorsed thereon by me, pursuant to State Statutes.

The undersigned, being first duly sworn, on oath deposes and says: That he is now and all times herein mentioned
a citizen of the United States, over the age of twenty-one years, not a party to or interested in the above entitled
action and competent to be a witness therein.

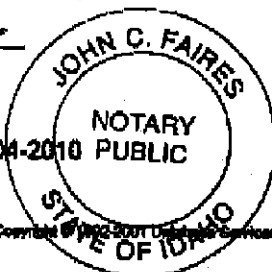
SUBSCRIBED AND SWORN TO ME ON the 20th day
of April, 2004 BY THE AFFIANT WHO IS
PERSONALLY KNOWN TO ME.

John C. Faires
NOTARY PUBLIC

STATE OF IDAHO

RESIDING AT NEZPERCE

MY COMMISSION EXPIRES 02-04-2010



Marsha W. Faires
Marsha W. Faires
#255158

H & H Legal Messengers
1992 Jacobs Rd.
Nezperce, ID 83543
(208) 791-4488

Fees 95.00
Our Job Serial Number: 2004000382
Ref: 2028195

#2

Edward J. Hemingway
 BUCKLEY & ASSOCIATES
 675 South Lane Street, Suite 300
 Seattle, WA 98104
 (206) 622-1100

Attorneys for Plaintiff, Nicole Logan

~~1. I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.~~

~~2. I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.~~

04-CV-00601-CMP

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

NICOLE LOGAN,

Plaintiff,

-vs-

THE CITY OF PULLMAN, a governmental entity,
 and DON HEROFF, DAN HARGRAVES, MIKE
 SONTGERATH, and RUBEN HARRIS,
 individually and as employees of the CITY OF
 PULLMAN, and unknown JOHN DOES,

Defendants.

Plaintiff alleges:

JURISDICTION

1. This action arises under 42 USC § 1983 for violations of the Fourteenth Amendment to the United States Constitution, and various state and common law claims, as hereinafter more fully appears. Jurisdiction is conferred upon this court pursuant to 28 USC § 1343, et seq. The jurisdiction of this court is founded on 28 USC § 1331.

FILED _____ ENTERED _____
 LODGED _____ RECEIVED _____

MAR 19 2004 PM

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY _____ DEPUTY

C04-0601Z

NO.

COMPLAINT

I hereby certify that the
 annexed instrument is a true
 and correct copy of the original
 on file in my office.

ATTEST: BRUCE RIFKIN
 Clerk, U. S. District Court
 Western District of Washington

By Cousins O. Ledone
 Deputy Clerk

BUCKLEY & ASSOCIATES, P.S., INC.

ATTORNEYS AT LAW
 675 South Lane Street, Suite 300
 Seattle, Washington 98104
 (206) 622-1100 Fax (206) 622-0688

SC ISSD # 850829

2. There exists a common nucleus of operative facts as to plaintiff's state and federal claims. As a consequence, this court has pendent jurisdiction over the state claims pursuant to 28 USC § 1367.

PARTIES

3. Plaintiff Nicole Logan, is a resident of Browns Point, Washington, and at the time of the incident was a resident of Pullman, Whitman County, Washington.

4. Defendants, Officer Don Heroff, Officer Dan Hargraves, Officer Mike Sontgerath, and Officer Ruben Harris, were, and at all times mentioned as, residents of Whitman County, Washington. Officer Don Heroff, Officer Dan Hargraves, Officer Mike Sontgerath, and Officer Ruben Harris were duly appointed and acting City Police Officers employed by the City of Pullman Police Department. As such, defendant Officer Don Heroff, Officer Dan Hargraves, Officer Mike Sontgerath, and Officer Ruben Harris were duly appointed agents authorized to enforce the laws of the City of Pullman, Washington, and was so acting under color of the law of the City of Pullman, Washington at all times relevant to this action.

5. Defendant, the City of Pullman Police Department, is and at all times mentioned was the City of Pullman, Washington State.

FACTS

6. On or about September 8, 2002 at approximately 1:30 a.m. plaintiff Nicole Logan was on the second floor of "The Attic" nightclub of the Top of China Restaurant in Pullman, Washington. Nicole Logan was dancing with friends when patrons of the overly crowded nightclub began rushing the exits due to the use of O.C. (oleoresin capsicum) a.k.a. known as pepper spray, and other chemical agents, on the first floor of "The Attic", by Officers Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris. The officers, wearing the standard

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1 uniform of a city police officer, discharged numerous canisters of pepper spray and other
2 chemical agents immediately after arriving at "The Attic", without properly assessing the scene,
3 properly announcing their presence, properly interviewing patrons prior to acting, and failing to
4 communicate with each other or their supervisors prior to acting. During this incident, the
5 plaintiff Nicole Logan's airways became constricted from the pepper spray and other chemical
6 agents. She began choking and shortly thereafter lost consciousness, stopping her heart, and
7 needing resuscitation by paramedics who arrived at the scene of the incident.
8

9 FIRST CAUSE OF ACTION

10 7. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
11 set forth at length.

12 8. This Cause of Action is brought by plaintiff against defendants, Don Heroff, Dan
13 Hargraves, Mike Sontgerath, and Ruben Harris for assault and battery.

14 9. As a direct and proximate result of the above-described illegal actions of
15 defendants, Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris, including their
16 excessive force, plaintiff sustained severe physical injury, causing plaintiff great bodily pain and
17 anguish of mind.
18

19 10. Due notice under all applicable statutes has been given to defendants.
20

21 SECOND CAUSE OF ACTION

22 11. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
23 set forth at length.

24 12. This Cause of Action is brought by plaintiff against defendants Don Heroff, Dan
25 Hargraves, Mike Sontgerath, and Ruben Harris for their negligent and wrongful acts, including
26 their negligence and carelessness of handling pepper spray and other chemical agents.

1 13. As a direct and proximate result of the above-described negligence of defendants
2 Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris, plaintiff sustained severe
3 physical injury, causing plaintiff great pain of body and anguish of mind.

4 14. Due notice under all applicable statutes has been given to defendants.

5 **THIRD CAUSE OF ACTION**

6 15. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
7 set forth at length.

8 16. This Cause of Action is brought by plaintiff against defendants Don Heroff, Dan
9 Hargraves, Mike Sontgerath, and Ruben Harris for their grossly negligent and reckless acts,
10 including their excessive and unnecessary use of force, discharging pepper spray and other
11 chemical agents in an overly crowded and confined space, without regard for the safety of others
12 and crowd control.

13 17. As a direct and proximate result of the above-described gross negligence and
14 recklessness of defendants Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris,
15 plaintiff sustained severe physical injury, causing plaintiff great pain of body and anguish of
16 mind.

17 18. Due notice under all applicable statutes has been given to defendants.

18 **FOURTH CAUSE OF ACTION**

19 19. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
20 set forth at length.

21 20. This Cause of Action is brought by plaintiff against defendants Don Heroff, Dan
22 Hargraves, Mike Sontgerath, and Ruben Harris for deprivation of constitutional rights within the
23 meaning of 42 U.S.C.A. § 1983.
24
25
26

1 21. The above-described actions subjected plaintiff to a deprivation of rights and
2 privileges secured to plaintiff by the constitution and laws of the United States including the due
3 process clause of the Fourteenth Amendment to the Constitution of the United States, within the
4 meaning of 42 U.S.C.A. § 1983.

5 22. As a direct and proximate result of the above-mentioned unconstitutional acts of
6 defendants Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris, plaintiff sustained
7 severe physical injury, causing plaintiff great pain of body and anguish of mind.

8 23. Due notice under all applicable statutes has been given to defendants.

9
10 **FIFTH CAUSE OF ACTION**

11 24. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
12 set forth at length.

13 25. Claims for Damages were properly filed with the defendant City of Pullman
14 pursuant to Washington law. More than sixty (60) days have elapsed since the filing of those
15 claims.

16 26. This Cause of Action is brought by plaintiff against City of Pullman for
17 negligence.

18 27. The above-described actions by defendants Don Heroff, Dan Hargraves, Mike
19 Sontgerath, and Ruben Harris resulted from the carelessness and negligence of the City of
20 Pullman, its agents, servants, employees, or other representatives, in hiring, failing to properly
21 train and failing to properly supervise defendants Don Heroff, Dan Hargraves, Mike Sontgerath,
22 and Ruben Harris.
23
24
25
26

1 28. As a direct and proximate result of the above-mentioned carelessness and
2 negligence of defendant the City of Pullman, plaintiff sustained severe physical injury, causing
3 plaintiff great pain of body and anguish of mind.

4 29. Due notice under all applicable statutes has been given to defendants.

5 **SIXTH CAUSE OF ACTION**

6 30. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
7 set forth at length.

8 31. This Cause of Action is brought by plaintiff against City of Pullman for the
9 negligent conduct of its agents, servants, or employees, defendants Don Heroff, Dan Hargraves,
10 Mike Sontgerath, and Ruben Harris, including defendants Don Heroff, Dan Hargraves, Mike
11 Sontgerath, and Ruben Harris' excessive and unnecessary use of force.

12 32. As a direct and proximate result of the negligence of defendants the Don Heroff,
13 Dan Hargraves, Mike Sontgerath, and Ruben Harris, while agents, servants, or employees of the
14 City of Pullman, plaintiff sustained severe physical injury, causing plaintiff great pain of body
15 and anguish of mind.

16 33. Due to notice under all applicable statutes has been given to defendants.

17 **SEVENTH CAUSE OF ACTION**

18 34. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
19 set forth at length.

20 35. This Cause of Action is brought by plaintiff against defendant the City of Pullman
21 for the grossly negligent and reckless conduct of its agents, servants, or employees, defendants
22 Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris.

1 36. As a direct and proximate result of the gross negligence and recklessness of
2 defendants Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris, while agents,
3 servants, or employees of the City of Pullman, plaintiff sustained severe physical injury, causing
4 plaintiff great pain of body and anguish of mind.

5 37. Due to notice under all applicable statutes has been given to defendants.

6
7 **EIGHTH CAUSE OF ACTION**

8 38. Plaintiff repeats and realleges each and every preceding paragraph, as if expressly
9 set forth at length.

10 39. This Cause of Action is brought by plaintiff against defendant the City of Pullman
11 for deprivation by its agents, servants, or employees, defendants Don Heroff, Dan Hargraves,
12 Mike Sontgerath, and Ruben Harris, of constitutional rights within the meaning of 42 U.S.C.A. §
13 1983.

14 40. The above-described actions of defendants Don Heroff, Dan Hargraves, Mike
15 Sontgerath, and Ruben Harris, while agents, servants, or employees of the City of Pullman
16 subjected plaintiff to a deprivation of rights and privileges secured to plaintiff by the constitution
17 and laws of the United States including the due process clause of the Fourteenth Amendment to
18 the Constitution of the United States, within the meaning of 42 U.S.C.A. § 1983.

19 41. As a direct and proximate result of the above-mentioned unconstitutional acts of
20 defendants Don Heroff, Dan Hargraves, Mike Sontgerath, and Ruben Harris, while agents,
21 servants, or employees of defendant the City of Pullman, plaintiff sustained severe physical
22 injury, causing plaintiff great pain of body and anguish of mind.

23 42. Due to notice under all applicable statutes has been given to defendants.
24
25
26

1 **WHEREFORE**, plaintiff seeks the following relief:

- 2 1. Judgment against defendants for \$ 500,000.00;
- 3 2. Reasonable attorney fees and costs of suit;
- 4 3. Punitive damages in such amount as shown in trial; and
- 5 4. Such other and further relief as the court deems just and proper.
- 6

7 **DATED** this 17th day of March 2004.

8

9 **BUCKLEY & ASSOCIATES**
Attorneys for Plaintiff

10
11 **BY:**

Edward J. Hemingway
Edward J. Hemingway, WSPA #28046
675 South Lane, Suite 300
Seattle, WA 98104

12
13
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of

16 Civil Procedure.

17

18 **BUCKLEY & ASSOCIATES**
Attorneys for Plaintiff

19
20 **BY:**

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21
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**U.S. District Court
Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:04-cv-00601-TSZ
Internal Use Only**

Logan v. Pullman City of et al
Assigned to: Hon. Thomas S. Zilly
Demand: \$500000
Cause: 42:1983 Civil Rights Act

Date Filed: 03/19/2004
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Nicole Logan

represented by **Edward J Hemingway**
BUCKLEY & ASSOCIATES
675 S LANE ST
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206-622-1100
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**Pullman City of, a governmental
entity**

represented by **Andrew G Cooley**
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206-623-8861
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Email: acooley@kbmlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.

ATTEST: **BRUCE RIFKIN**
Clerk, U. S. District Court
Western District of Washington

By *Cousule O. Ledone*
Deputy Clerk

Stewart Andrew Estes
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MCCORMACK
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ATTORNEY TO BE NOTICED

**Don Heroff, individual and as an
employee of the City of Pullman**

represented by **Andrew G Cooley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart Andrew Estes
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kimberly Joy Waldbaum
(See above for address)
ATTORNEY TO BE NOTICED

**Dan Hargraves, individual and as
an employee of the City of Pullman**

represented by **Andrew G Cooley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart Andrew Estes
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kimberly Joy Waldbaum
(See above for address)
ATTORNEY TO BE NOTICED

**Mike Sontgerath, individually and
as an employee of the City of
Pullman**

represented by **Andrew G Cooley**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart Andrew Estes

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kimberly Joy Waldbaum
(See above for address)
ATTORNEY TO BE NOTICED

**Ruben Harris, individually and as
an employee of the City of Pullman**

represented by **Andrew G Cooley**
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ATTORNEY TO BE NOTICED

Stewart Andrew Estes
(See above for address)
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ATTORNEY TO BE NOTICED

Kimberly Joy Waldbaum
(See above for address)
ATTORNEY TO BE NOTICED

John Does, unknown

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

Counter Claimant

John Does, unknown

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

Stewart Andrew Estes
(See above for address)
ATTORNEY TO BE NOTICED

**Dan Hargraves, individual and as
an employee of the City of Pullman**

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

**Ruben Harris, individually and as
an employee of the City of Pullman**

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

**Don Heroff, individual and as an
employee of the City of Pullman**

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

**Pullman City of, a governmental
entity**

represented by **Kimberly Joy Waldbaum**
(See above for address)

ATTORNEY TO BE NOTICED

**Mike Sontgerath, individually and
as an employee of the City of
Pullman**

represented by **Kimberly Joy Waldbaum**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter Defendant

Nicole Logan

Date Filed	#	Docket Text
03/19/2004	<u>1</u>	COMPLAINT and JURY DEMAND against defendant(s) John Does, Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath (Summons(es) issued) (Receipt # 850829) , filed by Nicole Logan. (Attachments: # <u>1</u> Civil Cover Sheet)(PM,) (Entered: 03/25/2004)
03/25/2004		Remark - plaintiff counsel, Edward J. Hemminway, not in the attorney database. Will contact to inquire re admission to WDWA. (PM,) (Entered: 03/25/2004)
04/28/2004	<u>2</u>	AFFIDAVIT OF SERVICE OF SUMMONS and Complaint returned executed upon defendant Don Heroff on 4/14/2004. (LT,) (Entered: 05/04/2004)
04/30/2004	<u>4</u>	NOTICE of Appearance by attorneys Andrew G Cooley and Stewart Andrew Estes on behalf of Defendants Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath (LT,) (Entered: 05/07/2004)
04/30/2004	<u>5</u>	PROOF OF SERVICE by Defendants Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath re <u>4</u> Notice of Appearance. (LT,) (Entered: 05/07/2004)
05/05/2004	<u>3</u>	ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT AND EARLY SETTLEMENT Joint Status Report due by 6/16/2004; by Judge Thomas S. Zilly. (CC) (Entered: 05/05/2004)
05/11/2004	<u>6</u>	SERVICE OF SUMMONS and Complaint returned executed upon defendant Mike Sontgerath on 4/23/2004. (AF,) (Entered: 05/17/2004)

05/11/2004	7	SERVICE OF SUMMONS and Complaint returned executed upon defendant Pullman City of on 4/22/2004. (AF,) (Entered: 05/17/2004)
05/11/2004	8	SERVICE OF SUMMONS and Complaint returned executed upon defendant Ruben Harris on 4/22/2004. (AF,) (Entered: 05/17/2004)
05/11/2004	9	SERVICE OF SUMMONS and Complaint returned executed upon defendant Dan Hargraves on 4/23/2004. (AF,) (Entered: 05/17/2004)
05/20/2004	10	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against plaintiff Nicole Logan by John Does, Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath.(Estes, Stewart) (Entered: 05/20/2004)
05/27/2004	11	MOTION to Change Venue <i>Under 28 USC 1406(a) or in the Alternative, to Dismiss Without Prejudice Pursuant to FRCP 12(b)(3)</i> by Defendants John Does, Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath, Counter Claimants John Does, Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath. Noting Date 6/8/2004. (Attachments: # <u>1</u> Proposed Order Granting Defendants' Motion to Change Venue Under 28 USC 1406(a) or in the Alternative, to Dismiss Without Prejudice Pursuant to FRCP 12(b)(3))(Waldbaum, Kimberly) (Entered: 05/27/2004)
06/03/2004	12	ANSWER to Counterclaim by Nicole Logan.(Hemingway, Edward) (Entered: 06/03/2004)
06/04/2004	13	RESPONSE filed by Plaintiff Nicole Logan re <u>11</u> MOTION to Change Venue <i>Under 28 USC 1406(a) or in the Alternative, to Dismiss Without Prejudice Pursuant to FRCP 12(b)(3) and Request for Consolidation with Case NO. CS-03-0335-FVS</i> (Hemingway, Edward) (Entered: 06/04/2004)
06/07/2004	14	REPLY, filed by Defendants John Does, Dan Hargraves, Ruben Harris, Don Heroff, Pullman City of, Mike Sontgerath, to Response to <u>11</u> MOTION to Change Venue <i>Under 28 USC 1406(a) or in the Alternative, to Dismiss Without Prejudice Pursuant to FRCP 12(b)(3)</i> (Waldbaum, Kimberly) (Entered: 06/07/2004)
06/15/2004	15	ORDER GRANTING <u>11</u> Dfts' Unopposed Motion to Change Venue by Judge Thomas S. Zilly. The Court transfers this case to the United States District Court, Eastern District of Washington.(CL,) (Entered: 06/16/2004)
06/17/2004		As per Order of Transfer, docket # 15, the following documents were mailed (1st. class mail) to the USD, Eastern WA: certified copies of all documents, docket sheet and Order of Transfer. Notification letter

sent to attys. (CL,) (Entered: 06/17/2004)